

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

In Re: Petition to Establish Docket to)	
Consider Implementing the)	
Requirements Of:)	
)	
Section 1307 (State Consideration of)	Docket No. 2008-447-E
Smart Grid) and Section 532)	
(Energy Efficiency Programs))	
of the Energy Independence)	
& Security Act of 2007)	

AMENDED PETITION
TO ESTABLISH DOCKET TO FULFILL THE STATE REQUIREMENTS OF THE
ENERGY INDEPENDENCE & SECURITY ACT OF 2007

The South Carolina Office of Regulatory Staff, (“ORS”), pursuant to 26 S.C. Code Regs. 103-825, respectfully requests that the Public Service Commission of South Carolina (the “Commission”) convene a docketed proceeding to consider matters as required by Section 1307 of the Energy Independence & Security Act of 2007 (“EISA”). ORS requests that its original Petition be amended to also include for consideration matters set forth in Section 532 of EISA applicable to both electric and natural gas utilities.¹ Although it is not clear Section 532 of EISA is required to be considered, in an abundance of caution, ORS is requesting to amend its original petition to include Section 532.

26 S.C. Code Regs. 103-825, provides that petitions for relief may be filed with the Commission. In support of this Petition, ORS states as follows:

¹ Other states such as North Carolina are including Section 532 and Section 1307 in the same docket. See the attached North Carolina Utilities Commission Order Scheduling Hearing and Requiring Public Notice. Other states considering Sections 532 and 1307 in one docket include, but are not limited to, Kentucky and Kansas.

1. ORS is a state agency charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows: ...”public interest” means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the state’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

2. The authorized representatives for ORS for this proceeding are:

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Pleadings, briefs, correspondence, and other documents in this proceeding should be served upon the authorized representatives.

3. On December 19, 2007, President Bush signed the EISA. The EISA requires state commissions to consider energy efficiency resources and smart grid investments with respect to each electric and gas utility for which the state commission has ratemaking authority².

² The Commission has ratemaking authority over the following electric utilities: (1) Duke Energy Carolinas, LLC; (2) Lockhart Power Company; (3) Carolina Power & Light d/b/a Progress Energy Carolinas, Inc.; (4) South Carolina Electric & Gas Company (“SCE&G”) and the following gas utilities: (1) SCE&G and (2) Piedmont Natural Gas.

4. A “smart grid” is a distribution system that allows for flow of information from a customer’s meter in two directions – into the house to thermostats, appliances and other devices, and from the house to the utility.³ It includes a variety of operational and energy measures including smart meters, smart appliances, renewable energy resources, and energy efficiency resources.⁴ The goal is to use advanced, information-based technologies to increase power grid efficiency, reliability, and flexibility, and reduce the rate at which additional electric utility infrastructure needs to be built.⁵ The Smart Grid could allow appliances to be turned off during

³ Page 20, Congressional Research Service Report for Congress titled “*Energy Independence and Security Act of 2007: A Summary of Major Provisions*,” December 21, 2007.

See also: Section 1301 of EISA and 42 U.S.C.A. § 17381, Statement of policy on modernization of electricity grid. It is the policy of the United States to support the modernization of the Nation's electricity transmission and distribution system to maintain a reliable and secure electricity infrastructure that can meet future demand growth and to achieve each of the following, which together characterize a Smart Grid::

- (1) Increased use of digital information and controls technology to improve reliability, security, and efficiency of the electric grid.
- (2) Dynamic optimization of grid operations and resources, with full cyber-security.
- (3) Deployment and integration of distributed resources and generation, including renewable resources.
- (4) Development and incorporation of demand response, demand-side resources, and energy-efficiency resources.
- (5) Deployment of “smart” technologies (real-time, automated, interactive technologies that optimize the physical operation of appliances and consumer devices) for metering, communications concerning grid operations and status, and distribution automation.
- (6) Integration of “smart” appliances and consumer devices.
- (7) Deployment and integration of advanced electricity storage and peak-shaving technologies, including plug-in electric and hybrid electric vehicles, and thermal-storage air conditioning.
- (8) Provision to consumers of timely information and control options.
- (9) Development of standards for communication and interoperability of appliances and equipment connected to the electric grid, including the infrastructure serving the grid.
- (10) Identification and lowering of unreasonable or unnecessary barriers to adoption of smart grid technologies, practices, and services.

⁴ Id.

⁵ Id.

periods of high electrical demand and cost and give customers real-time information on constantly changing electric rates.⁶

5. Section 1307 of EISA⁷ entitled “State Consideration of Smart Grid” requires the Commission not later than one year after the enactment of EISA (by December 19, 2008) to set a hearing date or commence the consideration referred to in paragraphs 6 through 9 below with regards to each electric utility for which it has ratemaking authority.⁸

6. Section 1307(a)(16)(A) of EISA requires the Commission to consider requiring an electric utility of South Carolina for which it has ratemaking authority to demonstrate that the utility considered an investment in a “qualified” smart grid system based on appropriate factors prior to undertaking investments in nonadvanced grid technologies. Factors in consideration for a qualified smart grid system include total costs, cost-effectiveness, improved reliability, security, system performance and societal benefit.

7. Section 1307(a)(16)(B) requires the Commission to consider authorizing each electric utility for which it has ratemaking authority to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures for the deployment of the qualified smart grid system.

8. Section 1307(a)(16)(C) requires the Commission to consider authorizing any electric utility for which it has ratemaking authority to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete

⁶ Id.

⁷ Section 1307 of EISA amends 16 U.S.C. §§2621(d) and 2622(b) through (d) of the Public Utility Regulatory Policies Act of 1978.

⁸ See §1307(b)(1) and 16 U.S.C. §2622. There appears to be a scrivener's error in the drafting of the law as these sections state that the state shall consider paragraphs (17) and (18) of 16 U.S.C. §2621 within certain time limits; however, there is no paragraph (18) in 16 U.S.C. §2621.

by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

9. Section 532(a)(16) and (17) of EISA amends 16 U.S.C. § 2621(d)⁹ by establishing federal standards for electric utilities for integrated resource planning and rate design modifications to promote energy efficiency investments. With respect to integrated resource planning, electric utilities are to incorporate energy efficiency resources and adopt policies establishing cost-effective energy efficiency. With respect to rate design modifications to promote energy efficiency investments, electric utilities are to align utility incentives with the delivery of cost-effective energy efficiency and promote energy efficiency investments. Section 532(a)(17)(B) further states each state regulatory authority shall consider: (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency; (ii) providing utility incentives for the successful management of energy efficiency programs; (iii) including the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; (iv) adopting rate designs that encourage energy efficiency for each customer class; (v) allowing timely recovery of energy efficiency-related costs; and (vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable. It should be noted that S.C. Code Ann. § 58-37-40, enacted in 1992, establishes integrated resource plans for electrical utilities. It should also be

⁹ See 16 U.S.C. § 2621(16) and (17). As noted in footnote 8 above, there is some confusion in locating the appropriate sections of EISA within the Public Utility Regulatory Policies Act. For instance, §2621 contains two paragraphs labeled (16) and two paragraphs labeled (17) with different headers. §2622 refers to subsection §2621(18), yet no subsection (18) exists.

noted that S.C. Code Ann. § 58-37-20, enacted in 1992, allows the Commission to adopt procedures that encourage electrical utilities to invest in cost-effective energy efficient technologies and energy conservation programs.

10. Section 532(b)(5) and (6) applies to natural gas utilities. Section 532(b)(5) of EISA, amending 15 U.S.C. § 3203(b), states each natural gas utility shall integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and adopt policies that establish energy efficiency as a priority resource in the plans and planning processes of the natural gas utility. Section 532(b)(6) of EISA, amending 15 U.S.C. § 3203(b), states the rates allowed to be charged by a natural gas utility shall align utility incentives with the deployment of cost-effective energy efficiency. With respect to natural gas rates and cost-effective energy efficiency, each state regulatory authority is to consider: (i) separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer; (ii) providing to utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs; (iii) promoting the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; and (iv) adopting rate designs that encourage energy efficiency for each customer.

11. With respect to paragraphs 6 through 9 above regarding electric utilities, EISA requires the Commission to complete its consideration and make a determination by December 19, 2009.¹⁰ However, there is no deadline for consideration if before August 8, 2005 the state has implemented the standard concerned (or a comparable standard); (2) the state regulatory authority has conducted a proceeding to consider implementation of the standard concerned (or a

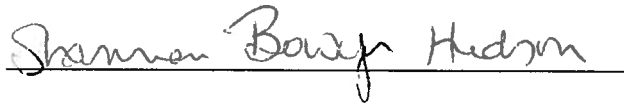
¹⁰ See EISA § 1307(b)(1).

comparable standard) for such utility; or (3) the state legislature has voted on the implementation of such standard (or a comparable standard) for such utility.¹¹ With respect to paragraph 10 regarding natural gas utilities, EISA may be read to also require a deadline of December 19, 2009 for consideration.¹²

12. In conclusion, ORS respectfully requests the Commission to include with this proceeding consideration of whether the standards set forth in Sections 1307 and 532 have already been met. Additionally, ORS requests that the Commission issue a procedural order and schedule soliciting public comments regarding Sections 532 and 1307.

Amended and re-submitted this 20th day of February, 2009

SOUTH CAROLINA OFFICE OF REGULATORY STAFF



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¹¹ See EISA § Section 1307(b)(3).

¹² See EISA § 532(b)(last unnumbered paragraph) and 15 U.S.C.A. § 3203

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 123

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Consideration of Certain Standards for Electric)	
Utilities Relating to Integrated Resource Planning,)	ORDER SCHEDULING
Rate Design Modifications to Promote Energy)	HEARING AND
Efficiency Investments, Smart Grid Investments,)	REQUIRING
and Smart Grid Information Pursuant to the Energy)	PUBLIC NOTICE
Independence and Security Act of 2007)	

BY THE COMMISSION: On December 19, 2007, the President of the United States signed into law the Energy Independence and Security Act of 2007, Pub. L. 110-140 (EISA). Sections 532 and 1307 of EISA amend Section 111 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. § 2621, to require each State regulatory authority, with respect to each electric utility for which it has ratemaking authority, to consider new federal standards and to make a determination whether or not it is appropriate to implement such standards to carry out the purposes of PURPA: "to encourage (1) the conservation of energy supplied by electric utilities; (2) the optimization of the efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers." 16 U.S.C. § 2611.

Section 532 of EISA amends PURPA by adding Sections 111(d)(16)-(17), as follows:

(16) Integrated resource planning. – Each electric utility shall –
 (A) integrate energy efficiency resources into utility, State, and regional plans; and
 (B) adopt policies establishing cost-effective energy efficiency as a priority resource.

(17) Rate design modifications to promote energy efficiency investments. –

 (A) In general. – The rates allowed to be charged by any electric utility shall – (i) align utility incentives with the delivery of cost-effective energy efficiency; and (ii) promote energy efficiency investments.

 (B) Policy options. – In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider – (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

(ii) providing utility incentives for the successful management of energy efficiency programs; (iii) including the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; (iv) adopting rate designs that encourage energy efficiency for each customer class; (v) allowing timely recovery of energy efficiency related costs; and (vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

Section 1307 of EISA amends PURPA by also adding Sections 111(d)(16)-(17), as follows:

(16) Consideration of smart grid investments. –

(A) In general. – Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including – (i) total costs; (ii) cost-effectiveness; (iii) improved reliability; (iv) security; (v) system performance; and (vi) societal benefit.

(B) Rate recovery. – Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) Obsolete equipment. – Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

(17) Smart grid information. –

(A) Standard. – All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) Information. – Information provided under this section, to the extent practicable, shall include:

(i) Prices. – Purchasers and other interested persons shall be provided with information on – (I) time-based electricity prices in the wholesale electricity market; and (II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) Usage. – Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) Intervals and projections. – Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) Sources. – Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) Access. – Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

Pursuant to Section 1307(b)(1) of EISA, which amends Section 112(b) of PURPA, 16 U.S.C. § 2622(b), each State regulatory authority is required to commence within one year of enactment of EISA and complete within two years its consideration “with respect to the standards established by paragraphs (17) through (18).” Pursuant to Section 1307(b)(3) of EISA, which amends Section 112(d) of PURPA, 16 U.S.C. § 2622(d), these time limitations do not apply with respect to the standards established by “paragraphs (17) through (18)”

in the case of any electric utility in a State if, before the enactment of this subsection – (1) the State has implemented for such utility the standard concerned (or a comparable standard); (2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or (3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.

Although Section 1307(b)(2) of EISA references “paragraphs (16) through (19) of section 111(d),” it is unclear which, if any, of the new standards added by Sections 532 and 1307 of EISA was intended as paragraph (18) and to which the above deadlines and state action exemption apply. One reading of the amended statute would result in the deadlines and state action exemptions applying only to the two paragraphs numbered (17), since there is no paragraph (18).

Given the ambiguity of the statute, the Commission finds good cause to proceed as if the deadlines were applicable to all four new standards notwithstanding the state action exemption, commence this proceeding, and schedule a hearing to consider whether or not it is appropriate to implement the integrated resource planning, rate design modifications to promote energy efficiency investments, and smart grid standards set forth in Sections 532 and 1307 of EISA.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing for the convenience of public witnesses, and solely for the purpose of taking nonexpert public witness testimony regarding the integrated resource planning, rate design modifications to promote energy efficiency investments, and smart grid standards set forth in Sections 532 and 1307 of EISA, should be, and hereby is, scheduled for Monday, April 6, 2009, at 7:00 p.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina;

2. That an evidentiary hearing for the purpose of receiving expert witness testimony regarding the integrated resource planning, rate design modifications to promote energy efficiency investments, and smart grid standards set forth in Sections 532 and 1307 of EISA should be, and hereby is, scheduled to commence on Tuesday, April 7, 2009, at 9:30 a.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina;

3. That Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. (Progress); Duke Energy Carolinas, LLC (Duke); and Virginia Electric and Power Company d/b/a Dominion North Carolina Power (Dominion) are hereby made parties of record in this proceeding;

4. That other persons desiring to become formal participants and parties of record in this proceeding shall file petitions to intervene in accordance with the applicable Commission rules on or before Friday, March 6, 2009;

5. That the parties to this proceeding shall prefile their initial direct expert testimony and exhibits on or before Friday, March 6, 2009.

6. That any party who desires to file rebuttal testimony shall do so on or before Friday, March 27, 2009;

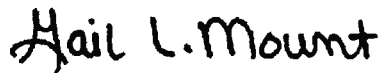
7. That the Chief Clerk shall mail a copy of this Order to all parties of record in Docket No. E-100, Subs 108 and 118; and

8. That the Notice of Public Hearing attached hereto as Appendix A shall be published by Progress, Duke, and Dominion in newspapers having general circulation in their respective North Carolina service areas once a week for two consecutive weeks beginning not later than the week of December 15, 2008, and that said Notice shall cover not less than 1/6 page.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of November, 2008.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, flowing style.

Gail L. Mount, Deputy Clerk

Kc112508.01

Commissioner Robert V. Owens, Jr., did not participate in this decision.

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 123

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Consideration of Certain Standards for Electric)
Utilities Relating to Integrated Resource Planning,)
Rate Design Modifications to Promote Energy) NOTICE OF
Efficiency Investments, Smart Grid Investments,) PUBLIC HEARING
and Smart Grid Information Pursuant to the)
Energy Independence and Security Act of 2007)

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has scheduled a public hearing to consider whether or not it is appropriate to implement new federal standards regarding integrated resource planning, rate design modifications to promote energy efficiency investments, and smart grid investments and information as set forth in Sections 532 and 1307 of the Energy Independence and Security Act of 2007 (EISA). Details regarding the new federal standards and the scope of the Commission's consideration may be obtained from the Commission's Internet web site, www.ncuc.net (search for Docket No. E-100, Sub 123).

A hearing for the convenience of public witnesses, and solely for the purpose of taking nonexpert public witness testimony regarding the above standards, is hereby scheduled for Monday, April 6, 2009, at 7:00 p.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

Persons desiring to present testimony for the record should appear at the public hearing. Persons desiring to send written statements to inform the Commission of their positions in the matter should reference Docket No. E-100, Sub 123 and address their statements to Chief Clerk, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina, 27699-4325. However, such written statements cannot be considered competent evidence unless those persons appear at the hearing and testify concerning the information contained in their written statements.

The Commission will convene an evidentiary hearing for the purpose of receiving testimony from expert witnesses beginning Tuesday, April 7, 2009, at 9:30 a.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina.

Persons desiring to intervene as formal parties of record should file a petition under North Carolina Utilities Commission Rules R1-5 and R1-19 no later than Friday, March 6, 2009. Such petitions should reference Docket No. E-100, Sub 123 and be filed

with the Chief Clerk, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina, 27699-4325. The direct testimony and exhibits of expert witnesses should also be filed with the Commission on or before Friday, March 6, 2009. Any party who desires to file rebuttal testimony shall do so on or before Friday, March 27, 2009.

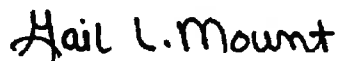
The Public Staff of the Utilities Commission, through its Executive Director, is required by statute to represent the using and consuming public in proceedings before the Commission. Written statements to the Public Staff should reference Docket No. E-100, Sub 123 and include any information which the writer wishes to be considered by the Public Staff in its investigation of this matter, and such statements should be addressed to Robert P. Gruber, Executive Director, Public Staff, North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina, 27699-4326.

The Attorney General is also authorized by statute to represent the using and consuming public in proceedings before the Commission. Statements to the Attorney General should be addressed to the Honorable Roy Cooper, Attorney General, c/o Utilities Division, 9001 Mail Service Center, Raleigh, North Carolina, 27699-9001.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of November, 2008.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, slightly stylized font.

Gail L. Mount, Deputy Clerk

NOTE TO PRINTER: Advertising costs shall be paid by the Applicant. The Affidavit of Publication shall be filed with the Commission by the Applicant.

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-447-E

IN RE:)	
Petition of the Office of Regulatory Staff to)	CERTIFICATE OF
Establish Docket to Consider Implementing)	SERVICE
the Requirements of Section 1307 (State)	
Consideration of Smart Grid) of the Energy)	
Independence and Security Act of 2007)	

This is to certify that I, Chrystal L. Morgan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **AMENDED PETITION** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Len S. Anthony, Esquire
Progress Energy Carolinas, Incorporated
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Raleigh, NC, 27602

Joey R. Floyd, Esquire
Bruner, Powell, Robbins, Wall & Mullins, LLC
Post Office Box 61110
Columbia, SC, 29260

Catherine E. Heigel, Associate General Counsel
Duke Energy Carolinas, LLC
Post Office Box 1006, EC03T
Charlotte, NC, 28201-1066

K. Chad Burgess, Senior Counsel
South Carolina Electric and Gas Company
1426 Main Street, MC 130
Columbia, SC, 29201

Joseph Wojcicki
820 East Steele Raod
West Columbia, SC, 29170



Chrystal L. Morgan

February 20, 2009
Columbia, South Carolina